

SAN LUIS OBISPO COUNTY POLICY GUIDE - LAND DEVELOPMENT AND THE WILLIAMSON ACT

POLICY GUIDE FOR DEVELOPMENT OF PROPERTY UNDER LAND CONSERVATION CONTRACT WITHIN THE WILLIAMSON ACT PROGRAM

BACKGROUND

The Williamson Act was designed to help keep agricultural land from being converted to urban land uses and consumed by urban sprawl. One of the reasons our county has retained its rural ambiance is that so much of the county, over one third, is protected by the Williamson Act program.

Thus, property with a land use category designation of Agriculture is often under a Land Conservation Contract and should be checked when a landowner or applicant applies for a building permit or land use permit or when real estate professionals come in to inquire about what a prospective purchaser might do with the property in future.

A Land Conservation Contract is a legally binding, enforceable restriction against the property. The terms of the contract must be adhered to or the property may be found to be in material breach of contract and subject to financial penalties in the most extreme cases and/or a County initiated notice of nonrenewal to remove it from the program.

In response to some flagrant abuses of the program in other localities, Government Code Section 51250 (AB 1492), also known as the Laird Bill, was passed as an additional enforcement tool in order to help curtail improper use of contracted agricultural land.

What this means to us in San Luis Obispo County is that we must implement the new legislation, evaluate our local ordinances, especially the Rules of Procedure to Implement the California Land Conservation Act of 1965 (Williamson Act), and provide guidance to land owners, applicants and real estate professionals.

The primary concern of the new legislation is to prevent construction of buildings that are not related to an agricultural or compatible use taking place on the property. The most common issue seems to be multiple residences on contracted agricultural land, probably because our inland land use ordinance allows two primary residences on each legal parcel over 20 acres in size and many of our agricultural properties contain multiple parcels. Therefore, what may be allowed by zoning may not be allowed by a land conservation contract.

The Laird Bill also emphasizes that the primary use of the property must remain in agriculture and the buildings and other uses must be related to an agricultural or compatible use taking place on the property. Since agricultural crops and land uses frequently fluctuate as a consequence of accepted agricultural practice, this makes the status of residences, buildings and non-agricultural land uses somewhat problematic over time. Since the type of building and use of a building is typically only evaluated when a land use or building permit is applied for, ongoing uses of buildings relative to the agricultural use will present special challenges.

DEPARTMENT POLICY

For our purposes it is best to focus on Table 2 of the Rules of Procedure. You'll notice that it is very similar to Table 2.2 of the Inland Land use Ordinance (LUO) and Table "O" of the Coastal Zone Land Use Ordinance (CZLUO). It is important to note that Table 2 in the Rules of Procedure refers to the LUO and CZLUO for residential density, and special use standards that typically require discretionary land use permits.

Due to the number of issues raised and complexities of AB 1492, many counties are re-examining their land use policies relative to Williamson Act contracted property and trying to evaluate whether their rules of procedure governing the Williamson Act and their land use ordinances may require some revision to reflect the heightened concerns raised by the State. No court cases yet exist that help clarify the scope and specific extent of the new legislation.

With the combination of no case law on this matter, the lack of a specific list of allowed land uses by the State Department of Conservation and the lack of examples from other counties regarding implementation, it was felt that the following approach should be used on an interim basis:

1. Inform all applicants seeking land use and construction permits on contracted land of the requirements of Government Code Section 51250 (AB 1492).
2. Provide basic information such as the Department of Conservation's (DOC) "Frequently Asked Questions" handout to applicants and interested parties upon request as well as the DOC's website at www.consrv.ca.gov for additional information via the internet.
3. Require all applicants and landowners to fully complete and sign a landowner's statement of compliance with the Williamson Act form to document that they have been informed of and understand the implication of AB 1492 and the potential for fines from the State if a material breach of contract occurs.
4. Evaluate the property's use to ensure that an agricultural use of the property exists that produces an agricultural commodity for commercial purposes.
5. Interpret the actual land conservation contract to ensure that a breach of contract has not already occurred and that the proposed structure or use will not be likely to result in a material breach of contract under Government Code Section 51250.
6. Continue to allow all land uses listed in Table 2 of the Rules of Procedure with some limitations and conditions until such time as formal changes are made by decision-makers. (Some land uses or structures allowed by Table 2 may be determined to result in a material breach of contract due to the characteristics of the site, agricultural use and unique circumstances. A landowner/applicant may appeal a decision by staff that the proposed use or structure would constitute a material breach of contract to the Board of Supervisors.)
7. Many of the more intensive land uses allowed on contracted property by Table 2, require conditional or minor use permit approval.

Approval of these land use permits will require findings to be made that the proposed use will be in support of the agricultural use of the contracted land, that agriculture will remain the primary use of the land and that no material breach of the contract will occur with the buildings constructed to establish the proposed use. (Findings must be made that the three principals of compatibility from the Williamson Act will be adhered to, see attached.)

8. The most significant change will be in regard to the number of residences allowed. The State DOC has consistently pointed to multiple residences and “housing developments” as potential material breaches of contract. Even though our existing Land Use Ordinance currently requires that agriculture be the primary use of land designated “Agriculture”, it currently allows more than one primary residence under certain circumstances and allows residences to be constructed before establishment of the agricultural use. Staff feels that this is a potential area of concern with our existing regulations.
9. Since our existing Inland and Coastal Zone Land Use Ordinances require that agriculture be the primary use of land with a land use designation of “Agriculture”, staff will simply be applying what already exists somewhat more stringently to Williamson Act contracted land by:
 - a. Requiring that the primary agricultural use be verified prior to issuance of a building permit or approval of a land use permit application.
 - b. If an agricultural use exists on the property, thus allowing the first primary SFR (subject to regular permitting requirements), the applicant must formally acknowledge that the landowner will occupy the residence and that he or she has a role related to an agricultural use of the property.
 - c. Allow an additional residence only when both residences (the primary single family residence and the second residence, Inland LUO only) are both related to an agricultural use of the property.
 - d. Farm Support Quarters will continue to be administered as it has been based on the LUO and a deed restriction/agreement.
 - e. Property under contract with more than one underlying legal lot will be limited to the above residential allowance on a “per contract” basis as opposed to a “per lot” basis.